S.B.Civil Revision No.79/07
M/s Idanmal Amolak Chand vs. Sampat Raj & anr.

Date of Order: 16.3.2007.

HON'BLE MR. PRAKASH TATIA,J.

Ms.Manoj Bohra for the petitioner.

Heard learned counsel for the petitioner.

The petitioner is aggrieved against the order dated 2.3.2007 passed by the Executing Court.

It is not in dispute that the petitioner judgment-debtor himself preferred appeal against the judgment and decree of the trial court which was dismissed and thereafter preferred writ petition before this Court, which according to the learned counsel for the petitioner, by now, also has been dismissed and the petitioner has not obtained any interim order in the special leave despite the fact that according to the learned counsel for the petitioner, the petitioner has submitted appeal against the judgment passed in the writ petition.

In these circumstances, if the executing court, after perusing the earlier possession warrant report wherein it is mentioned that the premises was found locked, if issued another possession warrant that if the premises is found locked, the possession may be taken after breaking the lock, I do not find any illegality in the order and the order 21 Rule 35, C.P.C. was rightly invoked by the court and there was no necessity of any notice to the judgment debtor in the facts and

circumstances of the case.

Hence there is no merit in this revision petition and same is hereby dismissed.

(**PRAKASH TATIA),J.**

mlt.